



# House of Representatives

General Assembly

**File No. 134**

January Session, 2007

Substitute House Bill No. 7139

*House of Representatives, March 26, 2007*

The Committee on General Law reported through REP. STONE of the 9th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT INCREASING PENALTIES FOR THE SALE OF CIGARETTES OR TOBACCO PRODUCTS TO MINORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-295a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) If the Commissioner of Revenue Services finds, after a hearing,  
4 that a minor has purchased cigarettes or tobacco products, said  
5 commissioner shall assess such minor a civil penalty of not more than  
6 [fifty] one hundred dollars for the first violation and not more than one  
7 hundred fifty dollars for any second or subsequent offense.

8 (b) If said commissioner finds, after a hearing, that any person  
9 employed by a dealer or distributor, as defined in section 12-285, has  
10 sold, given or delivered cigarettes or tobacco products to a minor other  
11 than a minor who is delivering or accepting delivery in his capacity as  
12 an employee, said commissioner shall assess such person a civil  
13 penalty of [one] two hundred dollars for the first violation and [one]

14 two hundred fifty dollars for a second or subsequent violation within  
15 eighteen months.

16 (c) If said commissioner finds, after a hearing, that any dealer or  
17 distributor has sold, given or delivered cigarettes or tobacco products  
18 to a minor other than a minor who is delivering or accepting delivery  
19 in his capacity as an employee, or such dealer or distributor's  
20 employee has sold, given or delivered cigarettes or tobacco products to  
21 such minor, said commissioner shall assess such dealer or distributor a  
22 civil penalty of [two hundred fifty] three hundred dollars for the first  
23 violation and [five hundred] seven hundred fifty dollars for a second  
24 violation within eighteen months. For a third violation within eighteen  
25 months, such dealer or distributor shall be assessed a civil penalty of  
26 [five hundred] seven hundred fifty dollars and any license held by  
27 such dealer or distributor under this chapter shall be suspended for  
28 not less than thirty days.

29 (d) If said commissioner finds, after a hearing, that any owner of an  
30 establishment in which a cigarette vending machine or restricted  
31 cigarette vending machine is located has sold, given or delivered  
32 cigarettes or tobacco products from any such machine to a minor other  
33 than a minor who is delivering or accepting delivery in his capacity as  
34 an employee, or has allowed cigarettes or tobacco products to be sold,  
35 given or delivered to such minor from any such machine, said  
36 commissioner shall assess such [dealer or distributor] owner a civil  
37 penalty of [two hundred fifty] five hundred dollars for the first  
38 violation and [five hundred] seven hundred fifty dollars for a second  
39 violation within eighteen months. For a third violation within eighteen  
40 months, such [dealer or distributor] owner shall be assessed a civil  
41 penalty of [five hundred] seven hundred fifty dollars and any such  
42 machine shall be immediately removed from such establishment and  
43 no such machine may be placed in such establishment for a period of  
44 one year following such removal.

45 (e) Any person aggrieved by any action of the commissioner  
46 pursuant to this section may take any appeal of such action as

47 provided in sections 12-311 and 12-312.

48 Sec. 2. Section 12-286a of the general statutes is repealed and the  
49 following is substituted in lieu thereof (*Effective October 1, 2007*):

50 (a) Each distributor and each dealer, as defined in section 12-285,  
51 shall place and maintain in legible condition at each point of sale of  
52 cigarettes to consumers, including the front of each vending machine,  
53 and each restricted cigarette vending machine a notice which states (1)  
54 that the sale, giving or delivering of tobacco products, including  
55 cigarettes, to any person under eighteen years of age is prohibited by  
56 section 53-344, (2) the purchase or misrepresentation of age by a person  
57 under eighteen years of age to purchase cigarettes or tobacco products  
58 is prohibited by said section 53-344, and (3) the penalties and fines for  
59 violating said section 53-344 and section 12-295a, as amended by this  
60 act.

61 (b) Any person who violates subsection (a) of this section shall be  
62 fined not more than one hundred dollars.

63 (c) The Commissioner of Consumer Protection may investigate any  
64 alleged violation of the provisions of subsection (a) of this section and,  
65 if there appears to be reasonable cause therefor, on reasonable notice to  
66 any person accused of any such violation, may make complaint to the  
67 prosecuting authority having jurisdiction of any such complaint or  
68 may, after notice and a hearing as provided in section 20-321, fine a  
69 distributor or dealer who violates said subsection (a) one hundred  
70 dollars per violation. Each day a distributor or dealer fails to post a  
71 notice in violation of subsection (a) of this section shall be a separate  
72 violation.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2007</i>	12-295a
Sec. 2	<i>October 1, 2007</i>	12-286a

**GL**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Revenue Services	GF - Revenue Gain	Minimal	Minimal

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill increases the civil penalties for 1) minors who purchase cigarette or tobacco products and 2) people who sell, give, or deliver the products to them. The Department of Revenue Services (DRS) assesses a monetary penalty in approximately 300 cases per year and the increase in the penalties is estimated to result in a minimal revenue gain of less than \$50,000 starting in FY 08.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sHB 7139*****AN ACT INCREASING PENALTIES FOR THE SALE OF CIGARETTES OR TOBACCO PRODUCTS TO MINORS.*****SUMMARY:**

This bill increases the civil penalties for (1) minors who purchase cigarette or tobacco products and (2) people who sell, give, or deliver the products to them. By law, the Department of Revenue Services (DRS) commissioner assesses the penalties following a hearing.

The bill also authorizes the Department of Consumer Protection (DCP) commissioner to investigate allegations of noncompliance with certain notice requirements by dealers and distributors. After doing so, it allows him to refer the case to the state's attorney or impose a civil penalty.

EFFECTIVE DATE: October 1, 2007

**PENALTIES FOR SELLING TOBACCO PRODUCTS TO MINORS*****Minors***

For minors (people under age 18) who purchase cigarettes or tobacco products, the bill increases the maximum penalty from (1) \$50 to \$100 for a first violation and (2) \$100 to \$150 for any subsequent violation.

***Dealers, Distributors, Employees, and Vending Machine Owners***

The bill increases the penalties for certain people who sell, give, or deliver cigarettes or tobacco products to minors, other than minors acting in their capacity as employees. They are (1) dealers and distributors; (2) their employees; and (3) owners of establishments with cigarette vending machines, whether coin-operated or restricted (see BACKGROUND).

For dealers and distributors, the bill increases the penalty from (1) \$250 to \$300 for a first violation and (2) \$500 to \$750 for any subsequent violation within 18 months. By law, a third violation within that period also results in a minimum 30-day license suspension.

For employees of dealers and distributors, the bill increases the penalty from (1) \$100 to \$200 for a first violation and (2) \$150 to \$250 for any subsequent violation within 18 months.

Finally, for owners of establishments with cigarette vending machines or restricted cigarette vending machines, the bill increases the penalty from (1) \$250 to \$500 for a first violation and (2) \$500 to \$750 for any subsequent violation within 18 months. By law, a third violation within 18 months also results in the immediate removal of any machines and a one-year ban on their replacement.

## **PENALTIES FOR NONCOMPLIANCE WITH THE NOTICE REQUIREMENT**

The law requires dealers and distributors to post notices where cigarettes are sold. The notices must state (1) that it is illegal to sell, give, or deliver cigarettes to minors and for minors to purchase them; and (2) the penalties for noncompliance. Violators are subject to a criminal fine of up to \$100.

The bill authorizes the DCP commissioner to investigate allegations of noncompliance with the notice requirement. If he determines that reasonable cause exists, he may (1) refer a case to the state's attorney or (2) impose a \$100 civil penalty per violation. In either case, he must provide notice to the accused. To impose a civil penalty, he must also provide an opportunity for a hearing. Each day a dealer or distributor fails to post the notice constitutes a separate violation.

## **BACKGROUND**

### ***Vending Machines***

The law distinguishes between two types of machines that it authorizes to dispense cigarettes. One is the traditional coin-operated

vending machine. The other is the “restricted cigarette vending machine,” which (1) automatically deactivates and cannot be operated after each sale and (2) requires a face-to-face interaction or display of identification between the purchaser and employee of the business where the machine is located.

**COMMITTEE ACTION**

General Law Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/08/2007)